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Transcript of Ruth Smith

Date: December 2, 2022

Case: Smith -v- SunPath, Ltd.

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<p>53</p> <p>1 (Discussion off the record from 11:00 2 a.m. to 11:00 a.m.) 3 MR. CAFFAS: Let's go back on the 4 record. 5 Can you reread my last question, Kelly. 6 (The reporter read the requested 7 testimony.) 8 BY MR. CAFFAS: 9 Q Why would you have to refer to your 10 notes? 11 A For the exact language. 12 Q Do you remember anything about the 13 language that led you to make that statement that 14 the purpose of the call was to solicit the sale of 15 SunPath's vehicle service contracts? 16 A Based on my memory, they gave the name 17 of the company and what they were -- what they 18 were -- I think what they were selling. 19 Q When you say the name of the company, 20 what was the name of the company? 21 A SunPath. 22 Q You say that they used the word</p>	<p>55</p> <p>1 MR. CAFFAS: 4. 2 (Smith Deposition Exhibit No. 4 was 3 marked for identification and was attached to the 4 deposition transcript.) 5 BY CAFFAS: 6 Q This is a packet of documents, Exhibit 7 4, and you'll notice these are Bates stamped. By 8 Bates stamped, they have a label at the bottom 9 right corner and it says Smith and a series of 10 numbers to make it easier to reference. So these 11 are Bates labeled SMITH1 through 20. 12 Now, these are the documents that we 13 received from your counsel with the exception of 14 an e-mail from a company called American 15 Protection and two recordings. I want you to take 16 a few minutes to look through the documents that I 17 have shown you, and can you confirm whether or not 18 this is a full collection of the documents that 19 you say that you had given to counsel that reflect 20 the notes that you provided in this case. 21 A To the best of my knowledge, this is all 22 of the screenshots provided.</p>
<p>54</p> <p>1 "SunPath" as the name of the company, not another 2 company's name? 3 MR. SMITH: Objection, misstates the 4 witness's testimony. 5 A I would have to refer to my notes for 6 exactly what the... 7 BY MR. CAFFAS: 8 Q I'll represent to you that we have not 9 received any notes at all that show what your 10 recollection is of any of these calls. 11 MR. SMITH: Objection. That misstates 12 the question. 13 BY MR. CAFFAS: 14 Q You're saying that any of your notes 15 regarding the calls that we're talking about were 16 given to counsel, right? 17 A After my -- after I received the calls, 18 yes, I put it on my notes and I submitted it. 19 Q I'm going enter what will be -- I think 20 this is Exhibit 5. 21 MR. CAFFAS: Is that correct? 22 THE REPORTER: 4.</p>	<p>56</p> <p>1 Q Now, is it correct to say that there are 2 no notes in that production that contain your 3 description or recollection of any of the calls 4 that you've described? 5 A So these are the lists of the 6 screenshots. 7 Q So is it accurate that the notes that 8 you're referring to about your recollection of the 9 calls, those aren't contained in that set of 10 documents? 11 A I'm not sure how that's like compiled. 12 Q In the set of documents that I just 13 handed you, can you confirm just with a yes or no, 14 if you can, whether or not the notes that you're 15 referring to are in that set of documents? 16 A Of the -- no. 17 Q And I'll represent to you that with the 18 exclusion of an e-mail that contains I believe the 19 SunPath policy quote that you're referring to, we 20 received no other documents, written documents, 21 from you at all. Are you saying that -- 22 MR. SMITH: Objection. That</p>

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<p style="text-align: right;">89</p> <p>1 that call was received and what number you 2 received that telephone call from? 3 A At this time, I don't believe I have it. 4 Q Do you have your voicemail saved on your 5 phone? 6 A I don't keep them for long periods of 7 time. 8 Q Is there a reason why you got rid of 9 this voicemail that's the subject of the claims in 10 the lawsuit? 11 A You're talking about the second 12 voicemail? 13 Q Yes. 14 A Yeah, I don't remember receiving that 15 voicemail. That specific voicemail, I don't 16 remember. The first one I do. 17 Q Are you saying that you don't -- you 18 didn't provide this to your counsel, or you just 19 don't remember receiving it or giving it to your 20 counsel? 21 A I don't remember receiving that 22 voicemail.</p>	<p style="text-align: right;">91</p> <p>1 Q And in the process of trying to 2 understand who is contacting you, did you request 3 to receive that product? 4 MR. SMITH: Object, vague, 5 argumentative. 6 MR. CAFFAS: Argumentative? 7 MR. SMITH: Yeah. 8 MR. CAFFAS: Can you explain? 9 MR. SMITH: You're trying to suggest the 10 answer to her. 11 MR. CAFFAS: Before you answer, Kelly, 12 could you read my question again. 13 (The reporter read the requested 14 question.) 15 A So I was trying to understand who was 16 trying to contact me. 17 MR. CAFFAS: Can you reread the 18 question, please. 19 (The reporter read the requested 20 question.) 21 A Did I request to see the specific 22 product? No. I was asking I believe that I</p>
<p style="text-align: right;">90</p> <p>1 Q Do you have any reason to doubt that you 2 did receive it and provide it to your counsel? 3 A You're saying do I have a doubt that I 4 received it and didn't provide it to my counsel? 5 I'm sorry. I'm not understanding. 6 Q You say you don't remember receiving it. 7 Do you have any reason to doubt that this call was 8 made to you, resulted in this voicemail that you 9 received, and then you then passed it on to your 10 counsel? 11 A So to the best of my knowledge, 12 everything that I received, I provided, but I do 13 not remember that second voicemail. 14 Q Do you know why you received -- did you 15 ask to receive a quote regarding the vehicle 16 service contract that was attached to the e-mail 17 that you received from Samantha Yaeger? 18 MR. SMITH: Object to form. 19 You can answer. 20 A I was trying to understand who was 21 trying to contact me. 22 BY MR. CAFFAS:</p>	<p style="text-align: right;">92</p> <p>1 wanted them to have them e-mail me something to 2 validate who they were. 3 BY MR. CAFFAS: 4 Q So you made an inquiry about who they 5 were and what they were selling? 6 MR. SMITH: Objection, argumentative. 7 A No. I was trying to determine who was 8 trying to contact me. 9 BY MR. CAFFAS: 10 Q Right. And in the process of trying to 11 determine that, did you make an inquiry about who 12 they were and what they were selling? 13 MR. SMITH: Objection, asked and 14 answered, argumentative, and calls for a legal 15 conclusion. 16 You can answer. 17 A Yeah, I was trying to determine who was 18 trying to contact me. 19 BY MR. CAFFAS: 20 Q And in the process of doing so, did you 21 make an inquiry about who they were and what they 22 were selling?</p>

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<p>157</p> <p>1 Q You don't know anything about their</p> <p>2 business practices?</p> <p>3 A I just know it's a telemarketer. It's a</p> <p>4 third party on behalf of, you know, SunPath. I</p> <p>5 don't know specifically what they're --</p> <p>6 Q You say you know it's a third party on</p> <p>7 behalf of SunPath?</p> <p>8 MR. SMITH: Objection, misstates the</p> <p>9 witness's testimony.</p> <p>10 MR. CAFFAS: Kelly, can you read Ms.</p> <p>11 Smith's response back, please.</p> <p>12 (The reporter read the requested</p> <p>13 answer.)</p> <p>14 BY MR. CAFFAS:</p> <p>15 Q What is the basis of your belief that</p> <p>16 American Protection is a third party on behalf of</p> <p>17 SunPath?</p> <p>18 A Because of the -- I believe because of</p> <p>19 the telemarketer and also because of all the, you</p> <p>20 know, calls that I received.</p> <p>21 Q Did anybody from American SunPath [sic]</p> <p>22 specifically say I, American Protection, am a</p>	<p>159</p> <p>1 BY MR. CAFFAS:</p> <p>2 Q How are they connected?</p> <p>3 A It's a third party on behalf of SunPath.</p> <p>4 Q Have you purchased a Coca-Cola or Pepsi</p> <p>5 product from a grocery store?</p> <p>6 A Yes.</p> <p>7 Q When you purchased that product from the</p> <p>8 grocery store, is the name of the grocery store on</p> <p>9 the receipt?</p> <p>10 A I would -- I would assume, yes.</p> <p>11 Q When you purchase a product from the</p> <p>12 grocery store, do you believe that the maker of</p> <p>13 the product controls how the grocery store</p> <p>14 displays that product?</p> <p>15 MR. SMITH: Objection, calls for</p> <p>16 speculation.</p> <p>17 You can answer.</p> <p>18 A You're buying a Coca-Cola. It's going</p> <p>19 to be Coca-Cola wherever it was or whatever the</p> <p>20 brand is, yes.</p> <p>21 BY MR. CAFFAS:</p> <p>22 Q So do you believe that Coca-Cola</p>
<p>158</p> <p>1 third party on behalf of SunPath?</p> <p>2 MR. SMITH: Objection, asked and</p> <p>3 answered, argumentative.</p> <p>4 BY MR. CAFFAS:</p> <p>5 Q You can answer.</p> <p>6 A Not -- not to my knowledge, no.</p> <p>7 Q Have you ever communicated directly with</p> <p>8 SunPath?</p> <p>9 A Not to my knowledge, no.</p> <p>10 Q So you understand there's a difference</p> <p>11 between American Protection and SunPath?</p> <p>12 MR. SMITH: Object to form.</p> <p>13 You can answer.</p> <p>14 A So American Protection is a third party</p> <p>15 on behalf of SunPath.</p> <p>16 BY MR. CAFFAS:</p> <p>17 Q So is it correct that you understand</p> <p>18 that they are different companies?</p> <p>19 MR. SMITH: Object to form.</p> <p>20 Go ahead.</p> <p>21 A Yes, but they are -- but they're</p> <p>22 connected.</p>	<p>160</p> <p>1 controls -- what grocery store do you go to?</p> <p>2 A I go to Whole Foods.</p> <p>3 Q Okay. Do you believe that if you buy a</p> <p>4 Coca-Cola from Whole Foods that Coca-Cola controls</p> <p>5 how Whole Foods sells their product?</p> <p>6 MR. SMITH: Objection, calls for</p> <p>7 speculation.</p> <p>8 Go ahead.</p> <p>9 A I believe that they do -- that there's a</p> <p>10 certain way that their products are displayed and</p> <p>11 where in the grocery store they are, et cetera.</p> <p>12 BY MR. CAFFAS:</p> <p>13 Q And do you believe that Whole Foods is a</p> <p>14 third party on behalf of Coca-Cola?</p> <p>15 MR. SMITH: Objection, vague, confusing,</p> <p>16 calls for a legal conclusion.</p> <p>17 A Yeah, I'm not -- I guess I don't</p> <p>18 understand.</p> <p>19 BY MR. CAFFAS:</p> <p>20 Q So you said something along the lines of</p> <p>21 you understand that American Protection is a third</p> <p>22 party on behalf of SunPath. Is that right?</p>

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<p>161</p> <p>1 A They were soliciting, yes.</p> <p>2 Q So in the analogy that I'm drawing, do</p> <p>3 you then believe that Whole Foods in selling</p> <p>4 Coca-Cola's products is a third party on behalf of</p> <p>5 Coca-Cola the same way that you're saying that</p> <p>6 American Protection is a third party on behalf of</p> <p>7 SunPath?</p> <p>8 MR. SMITH: Object to form.</p> <p>9 A Right. I think it's hard to compare the</p> <p>10 two, but -- so I...</p> <p>11 BY MR. CAFFAS:</p> <p>12 Q Why?</p> <p>13 MR. SMITH: Object to form.</p> <p>14 A I mean, Whole Foods is designed or any</p> <p>15 grocery store is designed to carry other people's</p> <p>16 products, so it's a direct relationship. I don't</p> <p>17 know the in's and out's of what the connections</p> <p>18 are here, but -- so I -- it's just hard for me to</p> <p>19 give you an answer.</p> <p>20 BY MR. CAFFAS:</p> <p>21 Q So you have no basis to say whether or</p> <p>22 not the relationship between American Protection</p>	<p>163</p> <p>1 what they -- in terms of what phone numbers or how</p> <p>2 they get them.</p> <p>3 Q Do you have any reason to believe that</p> <p>4 SunPath determines what companies' products that</p> <p>5 American Protection offers to consumers?</p> <p>6 A I don't know.</p> <p>7 Q Ruth, I'd like to direct you back to</p> <p>8 your complaint, specifically on page 7 of your</p> <p>9 complaint. There's paragraph 29, which is the</p> <p>10 very top of that page. You state or the complaint</p> <p>11 states, "All of the calls at issue here were</p> <p>12 placed via an ATDS at the direction and oversight</p> <p>13 of defendant," defendant meaning SunPath, the only</p> <p>14 defendant here. "Defendant knew about, directed,</p> <p>15 ratified, and benefited from those calls."</p> <p>16 So to specifically address the statement</p> <p>17 that the calls were placed at the direction and</p> <p>18 oversight of defendant, do you have any idea how</p> <p>19 that could be true?</p> <p>20 MR. SMITH: Objection, calls for a legal</p> <p>21 conclusion.</p> <p>22 A Yeah, I rely on my counsel.</p>
<p>162</p> <p>1 and SunPath is similar or different from Coca-Cola</p> <p>2 and Whole Foods, for example?</p> <p>3 MR. SMITH: Objection, harassing,</p> <p>4 argumentative.</p> <p>5 A I just know that they're a third party</p> <p>6 on behalf of SunPath.</p> <p>7 BY MR. CAFFAS:</p> <p>8 Q But you don't know anything about the</p> <p>9 in's and out's of that relationship?</p> <p>10 A Between American Protection and SunPath?</p> <p>11 Q Correct. You don't know anything about</p> <p>12 the in's and out's in the relationship?</p> <p>13 A Right. I don't.</p> <p>14 Q Do you have any reason to believe, for</p> <p>15 example, that SunPath controls sales scripts that</p> <p>16 American Protection uses when it contacts</p> <p>17 consumers?</p> <p>18 A I don't.</p> <p>19 Q Do you have any reason to believe that</p> <p>20 SunPath determines what phone numbers American</p> <p>21 Protection calls?</p> <p>22 A I don't know anything, I mean, about</p>	<p>164</p> <p>1 BY MR. CAFFAS:</p> <p>2 Q Do you personally know any facts that</p> <p>3 would lead you to state that the calls at issue</p> <p>4 were placed at the direction or oversight of</p> <p>5 SunPath?</p> <p>6 MR. SMITH: Same objection.</p> <p>7 A Yeah. I rely on my counsel.</p> <p>8 BY MR. CAFFAS:</p> <p>9 Q You rely on your counsel for what?</p> <p>10 A To determine the direction and</p> <p>11 oversight.</p> <p>12 Q Well, I'm not asking about your counsel</p> <p>13 determining anything. I'm asking about what you</p> <p>14 know or don't know that would lead you to say that</p> <p>15 American Protection, for example, if they're</p> <p>16 making the calls, did anything at the direction of</p> <p>17 SunPath?</p> <p>18 A I rely on them for that.</p> <p>19 Q You rely on "them" being your counsel?</p> <p>20 A Yes.</p> <p>21 Q And you rely on them to say what facts</p> <p>22 you know?</p>

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<p>1 MR. SMITH: Objection, misstates the 2 testimony. 3 A That is not – I rely on their guidance, 4 not... 5 BY MR. CAFFAS: 6 Q Right, and I'm not asking for your 7 counsel's legal guidance, I'm asking for what 8 facts, what information do you know, that is, if 9 anything? 10 MR. SMITH: Objection, calls for a legal 11 conclusion. 12 A I rely on my counsel. 13 MR. SMITH: Let me take a break and grab 14 a water. 15 MR. CAFFAS: We'll go off the record. 16 (A brief recess was had from 2:38 p.m. 17 to 2:40 p.m.) 18 MR. CAFFAS: Let's go back on the 19 record. 20 I think it might be productive if I ask 21 Kelly to again read back the question that I 22 asked.</p>	<p>165 1 supports that SunPath knew about any specific 2 calls that are the basis of your claims? 3 A I would defer to my counsel. I don't 4 know. 5 Q So just generally, what evidence do you 6 have to support your contention that SunPath is 7 responsible or liable for the actions of any other 8 party that made the calls that form the basis of 9 your claims? 10 MR. SMITH: Objection, calls for a legal 11 conclusion. 12 You can answer. 13 A I rely on my counsel. 14 BY MR. CAFFAS: 15 Q Are you aware that American Protection, 16 the company that sent you an e-mail after making 17 presumably some of the calls at issue, was deposed 18 in this case? 19 A I don't remember. 20 Q I will represent to you that American 21 Protection has been deposed and they have 22 represented that they did not make any calls to</p>
<p>166 1 Could you read the last question, 2 Kelly. 3 (The reporter read the requested 4 question.) 5 A I don't – I don't know. 6 BY MR. CAFFAS: 7 Q I'll ask the same thing about the 8 potential oversight that you're claiming that the 9 defendant had over any party making calls. Do you 10 have any facts that support that SunPath exercised 11 any oversight over anyone making calls? 12 MR. SMITH: Objection, calling for a 13 legal conclusion. 14 You can answer. 15 A Is it specific to a certain number, or 16 just all? 17 BY MR. CAFFAS: 18 Q Any specific one. 19 A Yeah, I don't know. 20 Q There's a statement in here that 21 defendant knew about the calls. Do you have any 22 facts or evidence that you're aware of that</p>	<p>167 168 1 you until after they first received a call from 2 you regarding information about their products. 3 Do you recall making a call to American Protection 4 prior to receiving any of the calls that are the 5 basis of your claims? 6 A I do not. 7 Q Are you saying that you've never called 8 American Protection directly at all? 9 MR. SMITH: Objection to form. 10 A Yeah, I don't remember making any calls. 11 MR. CAFFAS: I will introduce to you 12 what will be Exhibit 10. 13 (Smith Deposition Exhibit No. 10 was 14 marked for identification and was attached to the 15 deposition transcript.) 16 BY MR. CAFFAS: 17 Q Now, Exhibit 10 is a document that was 18 produced by American Protection in response to a 19 subpoena that was served by your counsel in this 20 case. Do you recognize this document? 21 A I don't. 22 Q And just to describe this for the</p>

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<p style="text-align: right;">169</p> <p>1 record, this is what appears to be some kind of</p> <p>2 mail notice or something akin to a postcard that</p> <p>3 reads at the top Vehicle Alert Notice, Please</p> <p>4 Respond Within Five Days, and the same number to</p> <p>5 call in to. I will represent to you that American</p> <p>6 Protection represented in their deposition that</p> <p>7 one of these mailers was mailed to you, and in</p> <p>8 response you called in requesting information</p> <p>9 about the products American Protection sells. Do</p> <p>10 you confirm that you -- excuse me. Can you</p> <p>11 confirm whether or not you called American</p> <p>12 Protection in response to a mailer similar to this</p> <p>13 exhibit?</p> <p>14 A Yeah, I don't remember receiving a</p> <p>15 mailer and I don't remember making a phone call</p> <p>16 based on that mailer.</p> <p>17 Q Just to clarify slightly, are you saying</p> <p>18 that you categorically did not make such a call,</p> <p>19 or you just don't remember?</p> <p>20 A I believe -- no, I did not make the</p> <p>21 call. I did not remember making the call.</p> <p>22 Q Again, just to clarify, you have never</p>	<p style="text-align: right;">171</p> <p>1 you requested to receive a call regarding vehicle</p> <p>2 service contracts?</p> <p>3 A Not to my knowledge, no.</p> <p>4 Q And likewise, have you ever visited a</p> <p>5 website where you input your personal information,</p> <p>6 including your phone number, and may have</p> <p>7 consented to receive calls regarding vehicle</p> <p>8 service contracts?</p> <p>9 A Not to my knowledge, no.</p> <p>10 Q Have you ever visited any website where</p> <p>11 you requested information regarding information</p> <p>12 for your car insurance?</p> <p>13 A Not to my knowledge, no.</p> <p>14 Q So you've never visited any website</p> <p>15 where you requested a quote for car insurance?</p> <p>16 A No. My insurance is through -- my</p> <p>17 father pays for it, so he takes care of all that</p> <p>18 stuff.</p> <p>19 Q Have you ever filed a lawsuit involving</p> <p>20 telemarketing calls other than this one?</p> <p>21 A Yes.</p> <p>22 Q When was that?</p>
<p style="text-align: right;">170</p> <p>1 made a call in response to receiving a mailer</p> <p>2 similar to this?</p> <p>3 A Yeah, I don't remember ever receiving a</p> <p>4 mailer like this before.</p> <p>5 Q Okay. Just to clarify because I think</p> <p>6 you said both things. You don't remember, or you</p> <p>7 did not?</p> <p>8 A And just to make sure I understand,</p> <p>9 you're specifically talking if I ever received a</p> <p>10 mailer for my vehicle saying that you have a</p> <p>11 five-day notice?</p> <p>12 Q First we'll say yes. Have you received</p> <p>13 a mailer similar to the exhibit that I've just</p> <p>14 shown you?</p> <p>15 A No, I do not remember ever receiving a</p> <p>16 mailer.</p> <p>17 Q Okay. And then that would mean that you</p> <p>18 then are saying that you did not make a call in</p> <p>19 response to receiving such a mailer?</p> <p>20 A Correct. I do not ever remember making</p> <p>21 a phone call, no.</p> <p>22 Q Have you ever visited a website where</p>	<p style="text-align: right;">172</p> <p>1 A I'd have to refer to the documentation,</p> <p>2 but I have. I cannot remember.</p> <p>3 Q Was that on more than one occasion?</p> <p>4 A Yes.</p> <p>5 Q Do you remember how many specific cases</p> <p>6 that would be?</p> <p>7 A Again, I'd have to -- I don't want to</p> <p>8 get the number incorrect, so I'd have to...</p> <p>9 Q Would you be able to say whether it was</p> <p>10 more or less than five?</p> <p>11 A I don't want to -- I just don't know a</p> <p>12 hundred percent.</p> <p>13 Q It was more than one?</p> <p>14 A Yes.</p> <p>15 Q Is it around five? Is it less than ten</p> <p>16 you can say?</p> <p>17 A I don't -- again, I don't remember. I</p> <p>18 just -- I need to check.</p> <p>19 Q Are these -- I'm specifically at this</p> <p>20 point asking about lawsuits that were filed in</p> <p>21 court, right? And you say that there's been more</p> <p>22 than one of these besides the present case?</p>

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<p>205</p> <p>1 MR. SMITH: Objection, misstates the</p> <p>2 witness's testimony.</p> <p>3 A Again, to the best of my knowledge, and</p> <p>4 I think I'm also waiting on the AT&T call logs,</p> <p>5 so...</p> <p>6 MR. CAFFAS: I have nothing further.</p> <p>7 MR. SMITH: I just have a few follow-up</p> <p>8 questions.</p> <p>9 THE WITNESS: Sure.</p> <p>10 EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>11 BY MR. SMITH:</p> <p>12 Q So earlier you testified that SunPath</p> <p>13 made the calls at issue. I just want to clarify.</p> <p>14 Can you tell me which party actually placed the</p> <p>15 calls in this case?</p> <p>16 A So it's --</p> <p>17 MR. CAFFAS: Objection, speculation,</p> <p>18 misstating the witness's testimony.</p> <p>19 BY MR. SMITH:</p> <p>20 Q You can answer.</p> <p>21 A So it was American Protection on behalf</p> <p>22 of SunPath.</p>	<p>207</p> <p>1 Q Can I direct your attention to SMITH26.</p> <p>2 A I'm trying to find it. It's on page 26</p> <p>3 with the Buy Now?</p> <p>4 Q The Buy Now link? Okay. After you</p> <p>5 clicked the Buy Now link, what would happen?</p> <p>6 MR. CAFFAS: Sorry. I didn't catch.</p> <p>7 I'm not sure if the court reporter did. Can you</p> <p>8 repeat that last question and answer?</p> <p>9 THE WITNESS: Okay. So I --</p> <p>10 MR. SMITH: Yeah. Sure. Hold on.</p> <p>11 BY MR. SMITH:</p> <p>12 Q All right. Just to clarify your</p> <p>13 testimony, are you stating that on page SMITH26</p> <p>14 you clicked the Buy Now, which would take you to</p> <p>15 the document that starts on SMITH22?</p> <p>16 A Yes. Based on my -- the best of my</p> <p>17 knowledge, yes.</p> <p>18 Q Okay. Do you see on SMITH22 where it</p> <p>19 says Your Plan?</p> <p>20 A I do at the top of the page on the left.</p> <p>21 Q Below that it says Coverage Provided by</p> <p>22 SunPath?</p>
<p>206</p> <p>1 Q Okay. Earlier you reviewed an e-mail</p> <p>2 that was marked as Exhibit 6. See that?</p> <p>3 A Yes.</p> <p>4 Q Can you turn to page SMITH22.</p> <p>5 A Yes. Got it.</p> <p>6 Q Can you review SMITH22, SMITH23, and</p> <p>7 SMITH24.</p> <p>8 A I reviewed it.</p> <p>9 Q All right. Do you know what these three</p> <p>10 pages are or how they relate to the e-mail on</p> <p>11 SMITH25?</p> <p>12 MR. CAFFAS: I'm going to object to</p> <p>13 vague as -- could you clarify which three pages</p> <p>14 you're referring to?</p> <p>15 MR. SMITH: Yeah, the ones we just</p> <p>16 discussed, 22 through 24, how they relate to</p> <p>17 SMITH -- the e-mail on SMITH25.</p> <p>18 A So these are the options for the plans</p> <p>19 for the --</p> <p>20 BY MR. SMITH:</p> <p>21 Q Do you know how you would access that?</p> <p>22 A I believe there was a link.</p>	<p>208</p> <p>1 A Yes.</p> <p>2 Q So is it a fair statement that this is</p> <p>3 an e-mail from American Protection that would have</p> <p>4 solicited you to purchase a SunPath vehicle</p> <p>5 service protection plan?</p> <p>6 A Yes.</p> <p>7 Q Okay. Does this change your testimony</p> <p>8 as to whose products were being sold via the calls</p> <p>9 at issue in this case?</p> <p>10 A So it's SunPath.</p> <p>11 Q Okay. I just want to clarify. American</p> <p>12 Protection was placing calls to sell SunPath's</p> <p>13 products and services?</p> <p>14 A On behalf, yes.</p> <p>15 Q Is it fair to say that you rely on your</p> <p>16 counsel to conduct an investigation in this case?</p> <p>17 A Yes.</p> <p>18 Q To gather facts?</p> <p>19 A Yes.</p> <p>20 Q Are you aware that there were call logs</p> <p>21 obtained in this case from Five9, Incorporated?</p> <p>22 A Yes.</p>

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1 CERTIFICATE OF SHORTHAND REPORTER

2 ELECTRONIC NOTARY PUBLIC

3 I, Kelly Carnegie, Certified Shorthand

4 Reporter, Registered Professional Reporter, the

5 officer before whom the foregoing proceedings were

6 taken, do hereby certify that the foregoing

7 transcript is a true and correct record of the

8 proceedings; that said proceedings were taken by

9 me stenographically and thereafter reduced to

10 typewriting under my direction; that reading and

11 signing was requested; and that I am neither

12 counsel for, related to, nor employed by any of

13 the parties to this case and have no interest,

14 financial or otherwise, in its outcome.

15 IN WITNESS WHEREOF, I have hereunto

16 electronically set my hand and affixed my notarial

17 seal this 5th day of December, 2022.

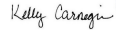
18

My commission expires:

19 July 31, 2026

20

21

A handwritten signature in cursive script, appearing to read "Kelly Carnegie", is written over a horizontal line.

NOTARY PUBLIC IN AND FOR THE

22 COMMONWEALTH OF VIRGINIA - PRINCE WILLIAM COUNTY

Notary Registration Number: 7060756